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Christina A. Engel
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Application of)
Consumers Interstate Corporation) Trademark Law Office: 102
for the mark LEAN PROCUREMENT)
Serial No.: 78/750,642) Examiner: Rebecca M. Eisinger
Filed: November 9, 2005) (Our Docket No. 1042-0002)

Middletown, Connecticut, August 11, 2008

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

REQUEST FOR RECONSIDERATION

This is a response to an Office Action having a mailing date of February 11, 2008, and a statutory period of response that expires on August 11, 2008. The Office Action is a Final Refusal of specimens submitted with a Statement of Use under Trademark Act §§ 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.56, 2.88(b)(2); and Trademark Manual of Examining Procedure (TMEP) §§904, 904.07(a) and 1109.09(b). Applicant respectfully requests reconsideration in view of the following Remarks.



08-13-2008

U.S. Patent & TMO/TM Mail Rpt. Dt. #24

REMARKS

In the Office Action, the Examining Attorney refuses registration under Trademark Act §§1 and 45 “because the specimens did not show use of the mark with applicant’s services as set forth in the Notice of Allowance.” See Office Action at page 1, first paragraph. Specifically, in the present Office Action, the Examining Attorney finally refuses the instant application because an original specimen allegedly merely “consists of a brochure advertising consultation services in the field of procurement” and a substitute specimen allegedly merely “advertises only consulting services in the field of procurement, rather than advertising the provision of software of any kind.” See paragraph spanning pages 1 and 2 of the Office Action. In conclusion, the Examining Attorney notes:

“Both of the specimens are unacceptable as evidence of actual service mark use because they do not refer to applicant’s stated services, namely providing online non-downloadable software. Thus, the specimens fail to show proper use of the applied-for mark in the sale or advertising of the services identified in the Notice of Allowance.”

See Office Action at page 2, last 2 sentences of the opening paragraph.

Applicant respectfully requests reconsideration of this refusal and directs the Examining Attorney’s attention to the substitute specimen previously submitted in a Response filed February 5, 2008. For the convenience of the Examining Attorney, Applicant’s representative provides a marked-up version of the substitute specimen (attached hereto and made a part hereof as Exhibit I) in support of the following remarks. Contrary to the Examining Attorney’s initial finding with respect to the substitute specimen, Applicant submits that the substitute specimen clearly refers to Applicant’s stated services, namely, providing on-line non-downloadable software.

For example, in Exhibit I at least at points highlighted by reference label "A", portions of Applicant's software (namely, "screen shots") are clearly illustrated. At label A-1 on page I-1, the substitute specimen illustrates a "Customer Login" portion of the software; at label A-2 on page I-3, the substitute specimen illustrates an "Account Information" portion of the software; and at label A-3 on page I-4, the substitute specimen illustrates a "Customer Order Form" portion of the software. Moreover, in Exhibit I at least at points highlighted by reference label "B" on page I-4 of the substitute specimen, the text of the brochure describes Applicant's services and specifically how the provided online software (and functions thereof) is used by prospective customers in furtherance of the recited services. For example, at label B-1 the text describes issuance of passwords for accessing one of Applicant's websites; at label B-2, the text describes training personnel of a prospective customer "to place orders on their unique online order form" and a "manager's online approval process"; at label B-3, the text describes an ability to review "usage and financial reports online"; and at label B-4, the text recites that "[o]rders are placed easily online".

It is respectfully submitted that the substitute specimen clearly illustrates in a manner that would be perceived by potential purchasers that Applicant is performing the services recited in the Notice of Allowance including services providing and utilizing online software and, further, that the LEAN PROCUREMENT mark identifies and distinguishes Applicant as the source of the recited services.

In view thereof, Applicant respectfully submits that the substitute specimen submitted February 5, 2008 describes providing online software as is recited in the recitation of services. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the final refusal to the instant application.

However, should the Examining Attorney maintain and continue the final refusal, Applicant submits herewith a second substitute specimen illustrating use in commerce of the LEAN PROCUREMENT mark in an effort to streamline prosecution. The second substitute specimen includes presentation materials used by Applicant, through its sales personnel, in the sale and advertising of the services recited in the Notice of Allowance. It is respectfully submitted that the second substitute specimen at least at, for example, pages 7, 8, 10, 17, 19, 20, 22 and 23, clearly illustrates in a manner that would be perceived by potential purchasers that Applicant is performing the services recited in the Notice of Allowance, including services providing and utilizing online software, and uses the LEAN PROCUREMENT mark to identify and distinguish Applicant as the source of the recited services. As noted in an affidavit submitted by the undersigned attorney of record, the second substitute specimen has been in use in commerce prior to the expiration of the filing deadline for filing the Statement of Use.

It is respectfully submitted that the Examining Attorney has in the record either in the original specimen, the first substitute specimen, or the newly submitted second substitute specimen, documentation that shows the applied for LEAN PROCUREMENT mark in use in commerce as required under Trademark Act §§ 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.56, 2.88(b)(2); and Trademark Manual of Examining Procedure (TMPE) §§904, 904.07(a) and 1109.09(b).

For the foregoing reasons, Applicant respectfully requests that the Examining Attorney remove the refusal to register the LEAN PROCUREMENT mark and reconsider the application.

Appended hereto is a Notice of Appeal.


Applicant believes that the foregoing remarks fully comply with the Office Action and that the application should be approved for issuance. If, however, the Examining Attorney

believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examining Attorney is invited to telephone the undersigned.

Applicant believes that no fees are due with respect to this Response, other than a fee for a Notice of Appeal. Authorization for the appeal fee is provided hereunder. If, however, the Examining Attorney deems that any other fees are in fact due, they may be charged to Deposit Account No. 503342 maintained by Applicant's attorneys.

Respectfully submitted,

By:


Michael K. Kinney
Registration No. 42,740
Attorney for Applicant

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EXHIBIT I

supersupplies

Using the Power
of the Internet
to Streamline Manufacturing
Procurement
Processes

A-1

You can start leveraging
the power of "lean procurement,"
the ease and speed of the Internet,
and our expertise as a leading
distributor of *industrial MRO*
supplies... to be far more
efficient **right now**

www.CCCO.com

We can make it
happen.

I-1

We UNDERSTAND
THE CHALLENGES facing a company like yours...

- Lack of awareness about how inefficient your procurement process really is, and how many employees and man-hours are involved
- Letting go of old habits and old-style procurement policies
- Wasting too much time on the smallest things: 80% of a company's supply-buying activities spent on low-value items.
- Slow requisitioning time: orders take 1-3 days on average.
- Getting suppliers to provide cost reductions initiatives.
- Not enough control and accountability over hundreds of industrial supplies.

THE SOLUTION is Lean Procurement™ Process...

- Finding out exactly what shape your process is in
- Comparing it to a better approach
- Implementing - fixing - worsening - better --
... and having the resources, the right suppliers, to get on there.

OUR PROVEN
PRIORITY PROGRAM® is the Internet-based approach we use to deliver all this...

- Typically in 30 days
- At no risk and no cost for us to do an in-depth supplier analysis
- Including creating and implementing a streamlined plan of action

A U.S Patent #6,895,389 for the Priority Program® validates our experience, value and the uniqueness. Visit www.TheInternetPatent.com for the details.

K We've done it to date
for over 300 companies
in New England.

**WE UNDERSTAND
EVERYONE'S
NEEDS inside the
company, and how
to satisfy them...**

Executives—New In 2006!

Gaining more control and financial accountability inside the procurement process and eliminating waste. Getting usage reports and financial data on products purchased by your departments based on your G/L codes*.

Corporate Managers

Achieving real cost reductions, and cutting out unnecessary procurement activities, to become leaner.

A-2

Purchasing

Consolidating the supplier base to "best-in-class" companies; reducing inventory and leveraging your buying power.

Buyers

Placing orders faster, getting deliveries on time, and having immediate and intelligent customer service.

End Users

Getting the best products for the job and never running out of inventory—plus having a knowledgeable supplier rep.

Receiving

Eliminating errors, reducing incoming deliveries and cutting out paper work.

Accounts Payable

Decreasing paperwork, invoices and the need to chase proof of deliveries; also eliminating supplier invoice errors and speeding up the bill paying and reconciliation process.

We're also sensitive to the culture change involved for companies, in doing things a new way; and help to make that transition as painless as possible.

*G/L codes only

I-3

We IMPLEMENT

**When you decide
to work with us:
it takes just 30 days.**

Our Priority Program® is used successfully by our customers: over 300 companies in New England of all kinds. It's patented. It's powerful. It's easy to adopt.

[illegible]

Who is using which products, where, when and how many?

U.S. Patent #6,895,389

WE'LL PUT YOUR NEW
Lean Procurement Process in place,
where...

- All team members to be on the new process and providing ongoing support.
- Meet with your procurement team; establish their role and assign a dedicated person to support your implementation.
 - Introduce the role team, and define the strategy and objectives.
- Identify your different departments and the dedicated person for them, or a suitable person to support all departments and coordinate the whole team.
- Review the current process through to assign **G/L codes** to the products to be sold on Amazon.
- Issue passwords with the new access credentials to the sales team and the support team. Support the sales team to get the products up and running on the site.
- Create a process to place orders, to fulfil enquiries, to create the product listing, to get the product to go through the online approval process.
- Create a product samples process, to get the product to the customer and to get the product to the customer.
- Create a process to get the product to the customer, to get the product to the customer, to get the product to the customer.
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Departments are identified. Buyers are assigned their products. Orders are placed easily online. Deliveries are made on our trucks. There's just one invoice a month.

Your ordering process will become faster, more accurate and better controlled.

You have everything to gain

We UNDERSTAND

the challenges you face

We DISCOVER

unnecessary steps and activities

We IMPLEMENT

a time-and-cost saving
Lean Procurement™ Process

It is our experience that when a company decides to change their procurement process, it requires more than an executive manager's approval. It requires their participation.

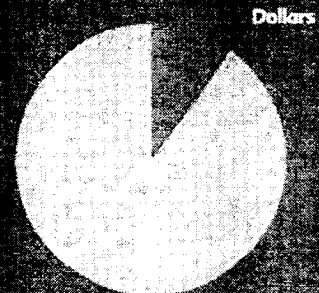
We're ready to set up, and deliver the best case scenario for your business and worth participating in.

Let us do the work and make the discovery for you.

*Why is it so important
to the executive?*

These MRO industrial supplies may account for less than 10% of your total procurement dollars, but the time and activities associated can run higher than 60% of your total procurement time.

Transaction cost exceeds product costs



Process time



There are people all over your company spending time every day in the process of getting the supplies they need.

The time spent far exceeds the dollars!

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

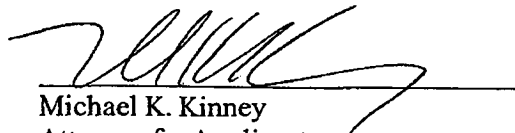
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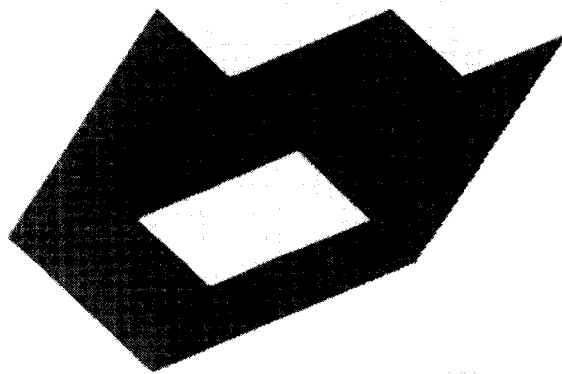
DECLARATION PURSUANT TO 37 C.F.R. §2.20

I, Michael K. Kinney, declare as follows:

1. I am the Attorney for the Applicant in U.S. Trademark Application Serial No. 78/750,642.
2. The enclosed specimen, submitted in response to the requirement issued by the Trademark Examiner in his Office Action dated February 11, 2008, has been in use in commerce prior to the expiration of the filing deadline for filing the Statement of Use.
3. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States code and that such willful false statements may jeopardize the validity of the application or any trademark registered thereon.

11 AUGUST 2008
Date


Michael K. Kinney
Attorney for Applicant



LEAN PROCUREMENT™

**CONSUMERS
INTERSTATE
COOPERATION**

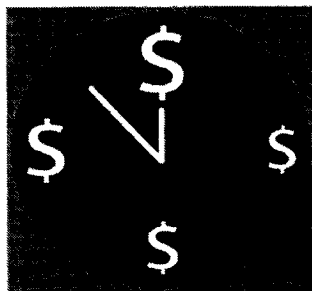
**Is your procurement
as lean as your
manufacturing?**



Lean Manufacturing

Eliminate Waste & Optimize Productivity

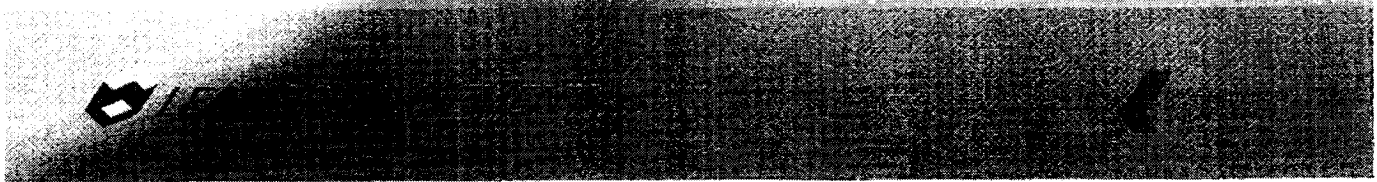
It's about time



 **LEAN PROCUREMENT**

 **CONSUMER INTELLIGENCE**

Where does Lean Procurement™ fit in?



Procurement is just another process up for review

Manufacturing

Procurement

What shape are you in?



"The Goal"

Movie



 **LEAN PROCUREMENT**

Lean Procurement™ is...

'More time to be more productive'

- **Eliminate:**
 - Procurement activities that have no value
 - Extra paperwork, filing, phoning, talking, data entry
 - Mistakes; ordering, receiving, a/p invoices
- **Speed up the:**
 - Ordering & Receiving process
 - Invoice & Accounting process
- **Access our online software www.supersupplies.com to:**
 - Place orders faster
 - Have one monthly invoice
 - See usage and financial reports



The Game Plan

- Set up the Kaizen team
- Find out what shape your process is in
- Recommend a leaner process to management
- Implement the new process by accessing our online software for your procurement process



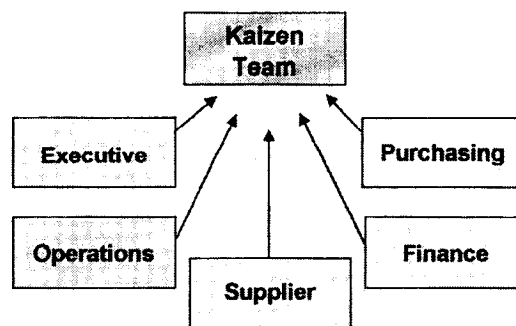
LEAN PROCUREMENT



KAIZEN

The Team

The Kaizen team (continuous improvement team), is a collaboration of departments



The Game Plan

- Set up the Kaizen team
- Find out what shape your process is in
- Recommend a leaner process to management
- Implement the new process
- Use our Lean Procurement online software

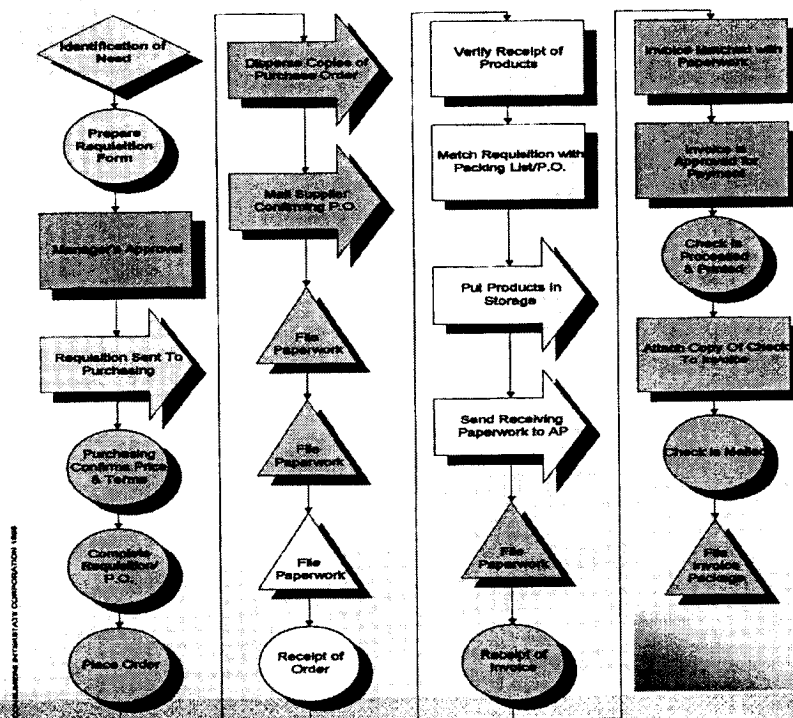


LEAN PROCUREMENT



Step 1 - What is the current procurement process?

How many steps are in the process?



 LEAN PROCUREMENT

 CONSULTING

The awakening

Here are the steps in the process

User- " I need a glove"
User- makes a requisition
User sends requisition to the manager
The manager OKs
The manager sends req to the buyer
The buyer searches for supplier
The buyer gets pricing
The buyer quotes other sources
The buyer selects supplier
The buyer enters the data in the computer
The buyer creates a PO
The buyer places the order
The buyer makes copies of the PO
The buyer sends copy of PO to A/P
The receiver gets the delivery
The receiver matches packing list with PO
The receiver enters data into the computer
The receiver delivers product to user

The product is put away
The receiver sends packing list to A/P
A/P matches packing list with PO
A/P receivable receives the invoice
A/P assigns G/L code by line item
A/P matches invoice in PO and packing list
A/P OKs invoice for payment
A/P enters invoice in computer for payment
A/P enters G/L code in computer for each item
A/P prints the check
A/P sends check for signature
Executive signs check
Executive sends check to A/P
A/P mails the check
Purchasing manager organizes usage data for budget review
Executive reviews product usage data
Executive organizes G/L data
Executive reviews G/L data for budgeting

36 steps for every order; each one creates a receiver and invoice

Add 5 more steps for mistakes:

Wrong price, wrong product, wrong product, wrong supplier delivery, wrong amount



LEHMAN

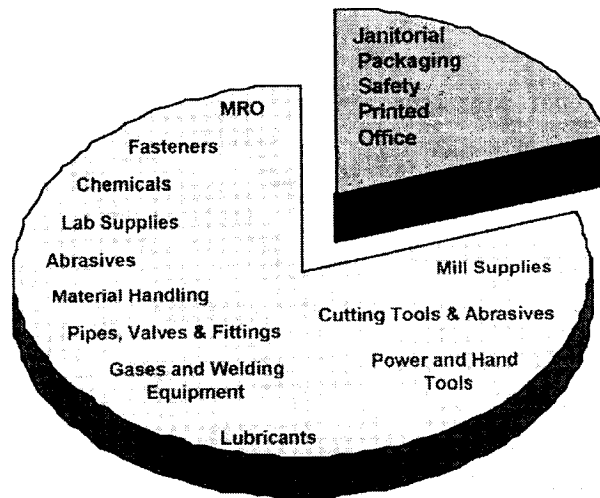
Which product groups?

- **Services**
- **Capital Equipment**
- **Raw Material**
- **Factory Supplies**



LEAN PROCUREMENT

CIC's product group of factory supplies (10-20%)



 **LEAN PROCUREMENT**

2nd – What is the supplier data?

- **How many suppliers?**
- **How many different products in use?**
- **How many invoices?**
- **What are the different supplier payment discount terms?**
- **What are the different supplier freight charge terms?**
- **What is the average size of your orders?**

The Pain

Here is the supplier analysis

PRODUCTS	# OF SUPPLIERS	# LINE ITEMS	TERMS	FREIGHT	# OF INVOICES	\$ VOLUME
Source 1 - Packaging, Janitorial, Safety	23	201	Various	\$6,750	482	\$135,002
Source 2 - Office Supplies & Furniture	3	149	Various	\$0	272	\$24,629
Source 3 - Printed Forms & Labels	11	73	Various	\$2,647	133	\$86,657
Source 4 - Water & Coffee	2	17	Various	\$0	124	\$7,319
Source 5 - Custom Packaging	3	25	Various	\$0	104	\$82,371
TOTAL	42	465		\$9,397	1,115	\$335,978

 LEAN PROCUREMENT

 LEAN PROCUREMENT

Enter the Lean Zone

Fewer: Requisitions, POs, receivings, invoices, checks

Less: Inventory, freight charges, paperwork

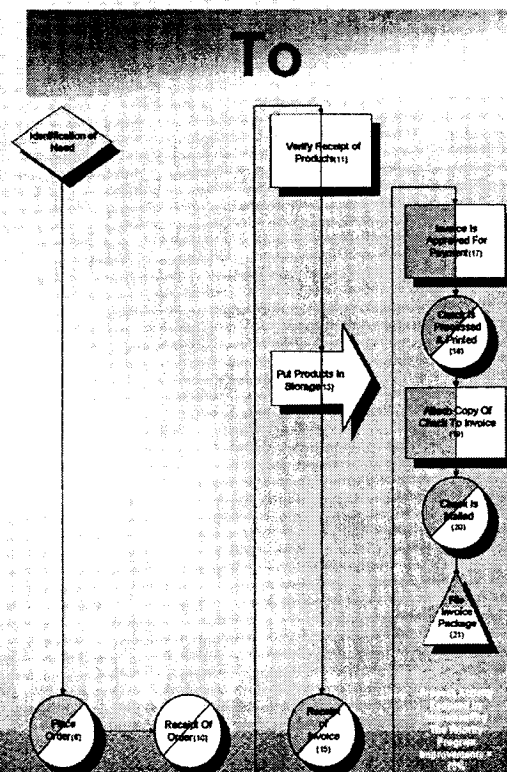
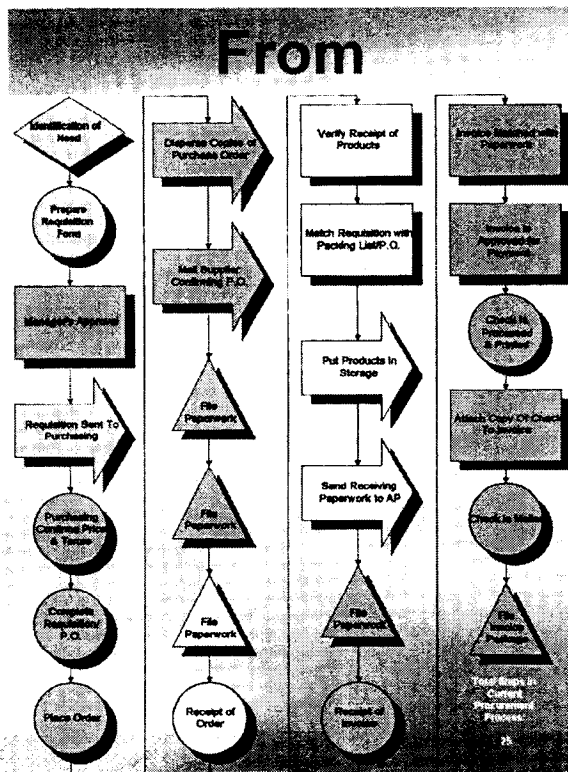
Paperwork eliminated:

Invoices	1,103	Cut to 12 monthly summary invoices
Purchase orders	836	Eliminated 75%
Receivings	836	Eliminated 75%
Supplier Base	32	Eliminated 75%

By using our online software to speed up your process

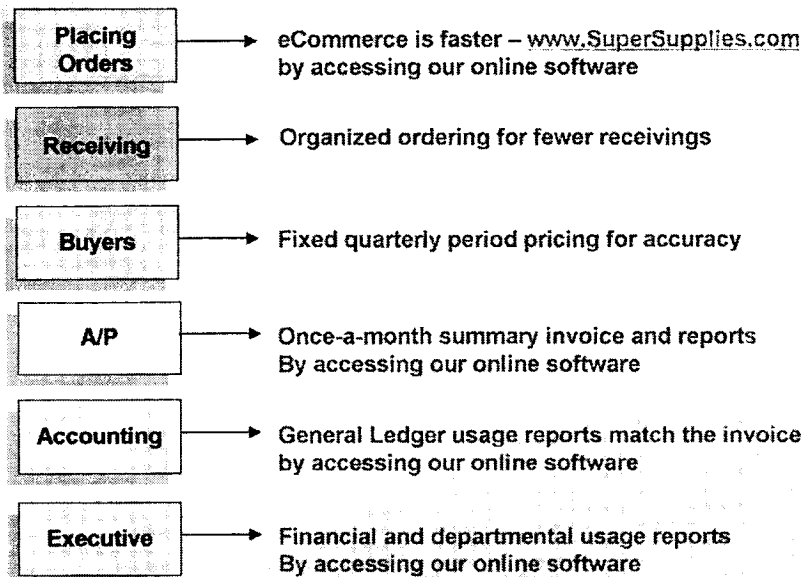


The New Lean Process



The Kaizen recommendation:

A Lean Procurement™ solution



What are some implementation obstacles?

- **Technical** - getting the procurement process out of the company's computer by:

Accessing our already proven and efficient Lean Procurement online software to place orders fast, keep your records up to date, provide categorized usage and financial reports according to your selected G/L codes and get one summarized monthly invoice.



HOW BETHLEHEM STEEL BUYS MRO

A simple idea saves \$8 million a year

Bin stocking and single sourcing save Bethlehem Steel's Burns Harbor plant a third of its MRO bill

By Joan M. Graham

Sometimes the simplest concept can be the most efficient and cost effective, says Larry Brandt, senior supervisor of purchasing and material control at Bethlehem Steel's Burns Harbor plant in Chesterton, Ind.

Brandt credits an MRO buying plan, set up around a single-sourced bin-stocking concept, with saving Burns Harbor more than \$8 million since 1984. For 1991 alone, he expects a savings of more than \$8 million on the 21 "supplier

agreements" written against about 80% of the Burns Harbor MRO bill.

The system is simple. The supplier comes in once a week and takes stock, makes up an order based on predetermined stocking levels, and files a release order. New stocks usually come in within two days and the materials are put away.

The fundamental concept behind the system, is single sourcing—with a twist. Once a supplier is chosen

for a particular commodity, that supplier provides all products used by Bethlehem in that product line. The other twist is "cost plus" pricing. A profit margin is agreed upon for every product during the negotiation of the contract. The result, according to Brandt, is an "average price of materials 5-10% lower than we used to pay."

Bethlehem has spent the past eight years refining the program, and learning as it goes. The first supplier in the program underwent little evaluation, and went out of business four months later. As a result the evaluation process is now intense and can take anywhere from six months to a year.

The selected supplier meets with Brandt and other Bethlehem employees to establish how the program will be implemented and monitored. The lynch pin of the program is a three-part "snap set" invoice that also serves as the initial order, packing list, proof of delivery, and the invoice to Bethlehem's accounts payable office at corporate headquarters in Pennsylvania. "This form eliminates all the rest of the paperwork done by Bethlehem employees. We don't have to keep anything on our computers because the supplier keeps all the records," says Brandt.

The evaluation process doesn't stop when the supplier is chosen. The Burns Harbor team has developed an intensive monitoring and

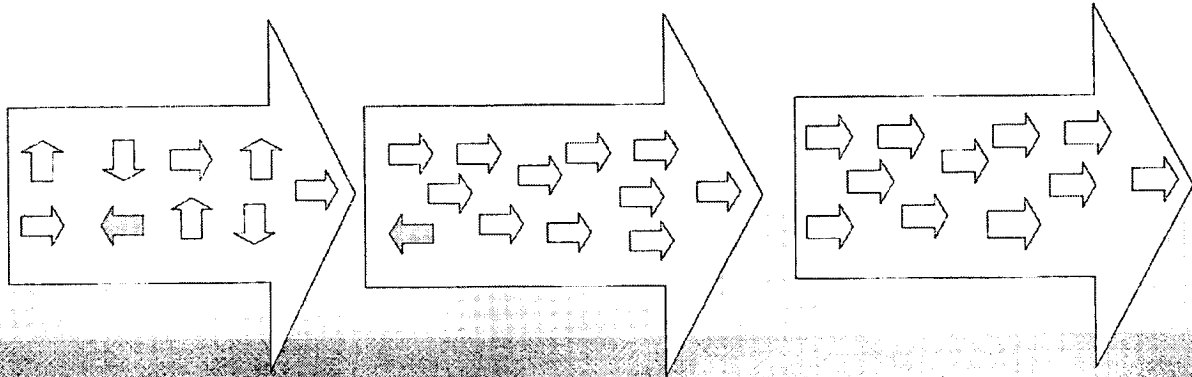


Larry Brandt credits supplier agreements with changing the roles of buyer and supplier

PHOTOGRAPH BY MARK SELLON
PURCHASING MAY 21, 1992 47

What are some implementation obstacles?

- **Technical** - getting your procurement process out of your company's computer and using our online software
- **Human** – Emotions about changing, resistance and getting everyone pointed in one direction



 **LEAN PROCUREMENT.**

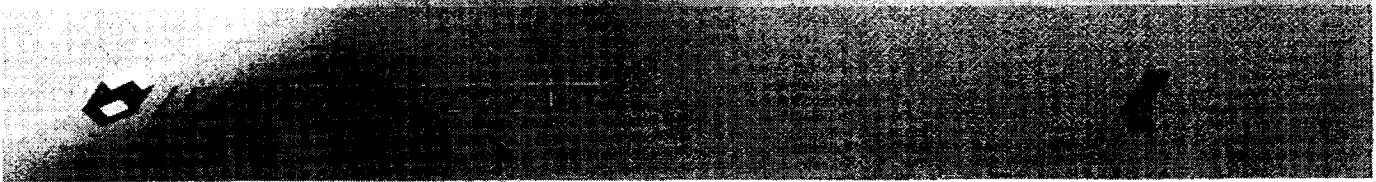
 **CONSULTING**

What are the results?

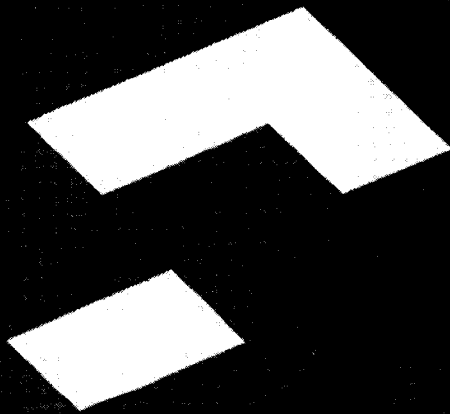
- **Unnecessary activities are eliminated**
- **The procurement process is streamlined**
- **Data is available 24/7 online for review & accountability**

All this by accessing our proven online software and using our patented Internet Procurement Process.

**Lean Procurement™ means
'More time for more productivity'**



think



LEAN PROCUREMENT